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File No. 3263

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<div>1944</div>		<div>E</div>	<div>E 3263</div> <div>30 MAY 1944</div>
<div>Registry Number } E 3263/3263/31</div> <div>FROM Foreign Office Minute.</div> <div>No. _____</div> <div>Dated _____</div> <div>Received in Registry } 30th May, 1944.</div> <div>E : Palestine and Transjordan.</div>		<div>Italian interests in Palestine.</div> <div>Draft letter to Mr. Boyd (Colonial Office) enclosing copy of, and requesting comments upon, memorandum regarding Italian interests in Palestine (E 7666/7666/31-1943) and requesting Colonial Office agreement to insertion in peace treaty with Italy of clause covering renunciation of Italian claims in Palestine.</div>	
<div>Last Paper.</div> <div>E 7666/7666/31-1943</div> <div>References.</div> <div>(Print.)</div> <div>(How disposed of.)</div> <div>Mr Boyd (Co.) from Mr Barker 31 May</div> <div>40151</div> <div><div>(Action completed.)</div><div>TR 6/6</div><div>(Index.)</div><div>TR 6/6</div></div> <div>Next Paper.</div> <div>E 3864</div> <div>(E 3988/324/4-45)</div>		<div>(Minutes.)</div> <div>See written</div> <div>This letter was written as the result of the minutes on E. 7666/7666/31-1943.</div> <div>TR 6/6</div>	

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OUT FOREIGN OFFICE, S.W.1. 5

31st May, 1944.

(E 3263/3263/31)

Dear Boyd,

We have been considering, in connexion with the draft heads of a peace treaty with Italy (a copy of which has been sent to the Colonial Office with Ronald's letter to Gater of the 25th April last U 2617/824/G), what interests Italy claims in Palestine and how far she should be called upon to renounce them.

I enclose a memorandum on Italian interests in Palestine. Our preliminary view is that it would be desirable to insert in the treaty a clause on very wide and general lines, which would cover inter alia the renunciation by Italy of any claims she might have in regard to Palestine as one of the Allied and Associated Powers during and after the last war and as a former member of the Council of the League of Nations, and any claims to fiscal and customs privileges formerly secured under the Capitulations. We have not as yet attempted to draft a formula.

We should be grateful if you would let us know whether you have any comments on the memorandum itself and whether you agree that a renunciation clause on the lines suggested should be inserted in the treaty.

(C.W. Baxter)

E.B. Boyd, Esq., C.M.G., C.V.O.,
Colonial Office.

COPY

(E 7666/7666/31)

Italian interests in Palestine.

State Papers
Vol.112 p.973

State Papers
Vol.113, p.797

In order to ascertain the extent of Italian interests in Palestine prior to the entry of Italy into the war in 1940, it is necessary to note that, when Italy joined the Allied Powers in 1915, she received a promise that her interests in the Ottoman Empire would be taken into account. Article IX of the Treaty of London, of April 26, 1915, provided that, in the event of a total or partial partition of Turkey in Asia, Italy would obtain an equitable portion in the Mediterranean region in the neighbourhood of Adalia and that, alternatively, Italian interests would be taken into account if the territorial integrity of the Ottoman Empire should be maintained. It is unnecessary here to enter into details regarding the subsequent discussions during the last war as to exactly what Italy should receive in the Ottoman Empire; it will be sufficient to note (i) that by a decision of the Supreme Council held at San Remo in April 1920 the mandates for Palestine and Mesopotamia were allocated to this country and for Syria and the Lebanon to France; (ii) that by the Treaty of Sèvres of August 10, 1920 Turkey retained sovereignty over that part of Anatolia earmarked as an Italian zone; (iii) that a Tripartite Agreement signed by Great Britain, France and Italy on August 10, 1920 recognised inter alia the special interests of Italy in Southern Anatolia; and (iv) that by the course of events in Turkey the British and French concessions to Italy in Asia Minor proved of no value to her.

2. Disappointed at her lack of success in obtaining an equivalent for what Great Britain and France had received as a result of the Turkish settlement, Italy set out to obtain for herself as much as possible in the way of recognition of her interests, actual or potential in the "A" mandated territories; as the terms of the mandates had still to be approved by the Council of the League of Nations, Italy was in a position to exercise a policy of blackmail and to obtain various assurances without which she could threaten to withhold her approval of the mandates. The present memorandum is concerned only with Palestine so that it will be unnecessary to detail the Anglo-Italian discussions regarding Mesopotamia or the Franco-Italian discussions regarding Syria and the Lebanon; the Palestine discussions are however, dealt with at some length as it may be assumed that the Italian Government did not fail at the time to bring to light any important interest which they considered at the time to be already

theirs/

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theirs or which they were determined to obtain if possible.

3. Italian desiderata in Palestine were fully discussed during conversations held in London in the summer of 1922 with an Italian delegation headed by the Italian Minister for Foreign Affairs, Signor Schanzer. At the first meeting, held on June 26th, the latter called attention to the strong feeling in Italy that she had been sacrificed on questions concerning Asia Minor and the Mediterranean, and mentioned that the self-denying provisions of Article 6 of the Tripartite Agreement of August 10th, 1920 placed her, in effect, in a position less advantageous than that of other countries. As regards Palestine in particular, he asked for an open door for Italy and handed in a memorandum containing a list of points on which his Government required assurances. These included the following:-

E 6453/6453/65/
1922

(i) the non-application in Palestine of the provisions of Article 6 of the Tripartite Agreement to Italy;

(ii) the participation of Italy in any public works (port works, railways, hydro-electric undertakings etc.,) undertaken in Palestine - including the participation of Italian capital and labour;

(iii) the Palestine nationality law not to affect the rights and interests of Italian subjects already in Palestine or others who might establish themselves there for economic or religious motives;

(iv) the establishment of a system of justice, analogous to that existing in Egypt, with a certain number of judges reserved for Italians;

(v) freedom to maintain existing schools and to open others (whether or not by religious bodies) in the future;

(vi) a clarification of the proposals regarding control of the mandatory over religious and philanthropic institutions;

(vii) special customs facilities for goods coming from, or going to, the Italian islands in the Aegean (and the Italian zone in Asia Minor if actually established);

(viii)/

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E 6653/6453/65/
1922

(viii) the Italian Government desired an assurance (similar to that already given to the United States Government) that nothing would be done in the administration of Palestine to the prejudice of the rights, civil or religious, of non-Jewish communities;

(ix) the Italian Government also desired an assurance that Italian religious missions, their school and philanthropic institutions should continue to enjoy the fiscal and Customs privileges formerly secured under the Capitulations.

4. The various questions raised at the meeting of June 26th regarding Palestine were subsequently discussed between representatives of the Colonial Office and the Italian Government, when agreement was reached ad referendum on the following lines:-

(i) Article 6 of the Tripartite Agreement would not operate to the disadvantage of Italy;

(ii) the terms of the draft mandate were not intended to preclude the participation of Italian enterprise in public works services and utilities and in the development of natural resources so far as these matters were not directly undertaken by the Administration; in the event of such participation, special arrangements could be made to regulate the conditions of such Italian labour as might be admitted into Palestine;

(iii) the Italian Government were to be satisfied on the nationality question by the terms of a draft Nationality Law;

(iv) the Italian Government were to accept the judicial system, by which foreigners (including Italians) should have the right to be tried, except in trivial cases, by Courts composed of a majority of British judges;

(v) His Majesty's Government had no intention of restricting the opening of new Italian schools or to restrict the right of such schools to admit pupils of another community;

(vi) the supervision of the mandatory over religious bodies was to be restricted to that required for the maintenance of public order and good government; there was no intention of permitting any arbitrary interference in the internal affairs of any religious community;

(vii)/

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(vii) in the event of the Italian zone of economic priority in Asia Minor materialising, and in the event also of a Customs arrangement being concluded between Palestine and Syria, His Majesty's Government would give favourable consideration to any proposals for a similar agreement in respect of sea-borne traffic between Palestine on the one hand and the Italian Zone and the Aegean islands on the other;

(viii) no objection was seen to the assurance being given regarding civil and religious rights of non-Jewish communities;

(ix) it was impracticable to continue to grant capitulatory rights after the mandate had been confirmed by the League Council, but special privileges might be given to religious charitable etc. institutions, e.g. consignments imported for the use of Italian places of worship, monastic orders etc., schools, orphanages, asylums, hospitals and dispensaries might be admitted free of duty.

5. It is unnecessary here to follow the course of the subsequent discussions with the Italian Government it being sufficient to record that the terms of the Palestine mandate were approved by the League Council on July 24, 1922 and entered into force on September 29, 1923 after the conclusion of an agreement between France and Italy regarding the mandate for Syria and the Lebanon. Italy, as a member of the League of Nations, secured the benefits of Article 18 of the Mandate and her other interests were safeguarded by other articles of the same instrument. In addition, assurances based on the oral agreement reached in 1922 were given to the Italian Government in a memorandum (of which a copy is annexed) sent to the Italian Ambassador in London by Sir Austen Chamberlain on April 29, 1926.

State Papers
Volume 116,
p. 842.
State Papers
Volume 118,
p. 913.

Confidential
15129

6. The questions raised by the Italian Government which have already been dealt with in this memorandum may be described as legitimate Italian interests, whether or not His Majesty's Government were prepared in every respect to meet their wishes. There was however another question to which the Italian Government attached importance and in regard to which they attempted to establish a special position for themselves, viz. the Holy Places in Palestine. It had long been recognised that, on the separation of Palestine from the Ottoman Empire, special measures would have to be taken as regards these Holy Places in view of the conflicting rights and claims of the various Christian Churches, the Jews and the Moslems, and Article 14 of the mandate provided for the appointment of a special commission to study, define and

determine/

determine such rights (It may be mentioned here that, owing to the inability of the Catholic Powers to agree among themselves, the Holy Places commission was never in fact set up).

7. The Italian Government, soon after the cessation of hostilities with Turkey, commenced a series of strenuous and repeated attempts to establish the claim of the King of Italy to ownership of the Coenaculum. This, also known as the Mosque of Nebi Daud, was originally a church which existed in the 4th century and which traditionally marked the sites of the Last Supper and the Descent of the Holy Ghost at Pentecost; the church was held by the Franciscans as a gift from Robert of Naples in 1313 A.D., but later the Moslems seized the place on the ground that it was the sepulchre of the prophet David. The Italian Government based their claims to the site on the grounds that the King of Italy was the successor of the Kings of Naples and they also attempted in 1919 to increase the validity of the claim by obtaining a firman from the Turkish Sultan. It is unnecessary here to enter into all the details of this claim, but it may be mentioned that there were other claims and that His Majesty's Government were not prepared to accept the Italian claim or to recognise the validity of any concession granted by the enemy Sultan to one of their allies; His Majesty's Government adopted the attitude, to which they consistently adhered, that the question was international and not purely Italian, and one that could properly, and indeed most conveniently, be dealt with by the Holy Places commission.

8. At a later date Italy attempted to establish for herself a special position as the defender of Catholicism in the East and especially in Palestine. In 1928 the Crown Prince of Italy paid a visit to the Holy Places, and an article in the "Corriere d'Italia" on his return to Italy described his "pilgrimage" as an event of great religious and political importance by which Italy had shown her determination to defend the Catholic rights over the Holy Places and to make it clear to all the authorities, to the schismatics and to all Protestant sects and denominations that in the Orient Italy intended to defend not only her prestige but also the Latin and Catholic traditions; the article went on to call attention to Italy's historic rôle in Palestine starting with the early Crusades and continuing throughout the centuries with missionary work and the guardianship of the Franciscans of the Holy Places and closed with the assertion that Italy, by

/ traditional

E 6200/228/65/
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E 14287/4355/88/
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E 1992/577/65/
1928

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"His Britannic Majesty's Government
 "are aware of the very special interest
 "which, owing to her geographical and
 "political position, Italy is bound to
 "display in everything which concerns
 "the countries of the Eastern
 "Mediterranean. Moreover, the ancient
 "and complex historical, religious and
 "cultural relations which exist between
 "Palestine and Italy are well known.
 "In addition, numerous Italian subjects
 "have been established there for years
 "and possess interests of some
 "importance, while spiritual contacts
 "are of a continuous nature and there
 "is a fair flow of trade between the
 "two countries."

E 5012/5012/31/
 1931

E 342/342/31/1932

11. Special mention must be made
 however of the desire of the Italian
 Government to maintain as far as possible the
 special immunities and privileges which
 foreign consular officers enjoyed under the
 former régime. While admitting that the
 question was provided for in Article 8 of
 the mandate, the Italian Government sought
 to maintain that, as the mandate had only
 a temporary character, privileges of
 consular officers must remain unimpaired.
 His Majesty's Government refused to accept
 this argument and expressed the view that,
 so long as the mandate remained in force,
 His Majesty's Government were under no
 obligation to grant any immunity or
 privilege to consular officers in Palestine
 in excess of what would normally be granted
 in other territories under the jurisdiction
 of His Majesty's Government; His Majesty's
 Government, however, while unable to admit
 that consular officers in Palestine were
 entitled, as of right, to expect treatment
 of a specially favourable nature, were not
 unmindful of the special position formerly
 held by consular officers in the Near and
 Middle East under the régime of the
 capitulations, and of the political
 advantages of maintaining their prestige in
 Middle Eastern territories in so far as
 this could be done without prejudice to the
 legal position; the privileges and
 immunities accorded to consular officers
 in Palestine had therefore been fixed, as
 a matter of courtesy, on a liberal scale,
 and details of the various concessions made
 in their favour were summarised in a
 separate memorandum forwarded to the Italian
 Ambassador (exemptions from certain
 personal and financial charges, judicial
 immunities and precedence).

12. In 1933 and 1934 Signor
 Mussolini began to take a personal interest
 in the Palestine question; in December,

/ 1933

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1933 Marquis Alberto Theodoli (the President of the Mandates Commission) informed His Majesty's Ambassador at Rome that Signor Mussolini was "assuming the rôle of protector of the Jews" and that the Italian Government were anxious that all sources of disturbances between Jews and Arabs should be removed, and in February, 1934 Signor Mussolini informed Dr. Weizmann that the ultimate establishment of a Jewish state was inevitable and that he (Mussolini) could exert considerable influence with the Arabs if they were inclined to make trouble. It is not proposed to follow the course of Italian policy as regards Palestine during the Arab-Jewish troubles and during the period of disturbed Anglo-Italian relations resulting from the Abyssinian war and the civil war in Spain. It will be sufficient to pass to the Anglo-Italian discussions in Rome in the spring of 1938, although mention should be made of (i) the Anglo-Italian declaration of January 2, 1937, which provided inter alia that both governments disclaimed any desire to modify or, so far as they were concerned, to see modified, the status quo as regards national sovereignty of territories in the Mediterranean area; and (ii) Italy's decision in December 1937 to withdraw from the League of Nations; it should be noted however that Italy did not thereby immediately cease to be a Member of the League, as Article I of the Covenant provides for two years' notice of withdrawal, so that, while Italy no longer participated in the work of the League, she was entitled, during the period of notice, to the benefits conferred by the Palestine Mandate upon League members.

13. On March 4, 1938 Lord Perth was authorised to initiate negotiations for a détente in Anglo-Italian relations in the Mediterranean, in the Near and Middle East and in Abyssinia, and, as regards Palestine in particular, he was informed that it might be possible, and certainly would be desirable, to obtain from the Italian Government an undertaking that they would refrain from any attempt to create difficulty for His Majesty's Government either in the framing of policy for, or in the administration of, Palestine, provided His Majesty's Government on their side were willing to undertake to respect legitimate Italian interests in that country. Prior to the initiation of the conversations at Rome, the question of British and Italian desiderata was carefully considered by His Majesty's

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E 7823/6498/31
1933

E 1279/96/31
1934

Treaty Series
No. 14/1937

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1938

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E 2398/330/31/1938

previously, the Egyptian Coptic Church)

16. His Majesty's Government were not disposed to conclude an arrangement with Italy on these lines and the Italian Government were not disposed to give His Majesty's Government a blank cheque in the settlement of the Palestine question, but eventually oral assurances were exchanged between Lord Perth and Count Ciano on April 16, 1938 in the following terms:-

"The question of Palestine has been discussed
"between the Italian Minister for Foreign
"Affairs and his Majesty's Ambassador at Rome
"in the course of their recent conversations.

"As a result the Italian Minister for Foreign
"Affairs has assured His Majesty's Ambassador
"orally that the Italian Government will abstain
"from creating difficulties or embarrassments
"for His Majesty's Government in the administration
"of Palestine.

"His Majesty's Ambassador has assured the
"Italian Minister for Foreign Affairs orally
"that His Majesty's Government for their part
"intend to preserve and protect legitimate
"Italian interests in that country.

"The Italian Minister for Foreign Affairs and
"His Majesty's Ambassador have, moreover, agreed
"that these assurances may be made public".

E 6611/6611/31/
1939

17. The Italian withdrawal from the League of Nations became effective on December 11, 1939. Before that date however, the Foreign Office were approached unofficially by the Italian Embassy with the suggestion that His Majesty's Government and the Italian Government should reach an agreement according most-favoured-nation rights to Italy in Palestine, on the basis of reciprocity, as from the effective date of Italy's departure from the League. For reasons into which it is unnecessary to enter here, His Majesty's Government were not prepared to conclude such an agreement but they desired nevertheless, on political grounds, not to antagonise the Italian Government in this matter. On January 1, 1940 therefore, a private letter was addressed to Signor Fracassi of the Italian Embassy stating that His Majesty's Government preferred not to complicate the already complicated position in regard to Palestine by fresh agreements of the nature suggested, but that no discrimination was then being made in Palestine between members and non-members of the League and that there was no present intention of according to Italy anything other than the same treatment that was accorded to countries members of the League in all commercial matters.

E 8069/6611/31/
1939

18. Before closing this memorandum, brief reference should be made to Italian claims advanced in 1939 to what they asserted were former Abyssinian state properties in Palestine. The properties

file E 911/31/1939
file E 257/31/1940

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concerned were the Abyssinian Consulate at Jerusalem and certain convents, in regard to which His Majesty's Government consistently took the view that the question of ownership was one for the Courts. The actions brought by the Italian Government in the Palestine Courts were stopped by the entry of Italy into the war, and the Italian claims naturally lost all validity with the re-establishment of Abyssinian independence, so that it is unnecessary to enter into details in this regard.

file E 889/31/1940

19. From the foregoing, the nature and extent of Italy's interests in Palestine have been sufficiently indicated, but it may be convenient to recapitulate the grounds upon which her special position prior to her entry into the war in 1940 were based. They are as follows:-

(a) Italy's pre-1915 capitulatory rights: these rights are dormant, were merely waived during the validity of the Palestine mandate and would legally revive on the termination of that instrument.

(b) Italy's status as one of the Principal Allied and Associated Powers during and after the last war, as a member of the Supreme Council who, at San Remo in 1920, allocated the Palestine mandate to Great Britain and as a member of the League Council which finally approved the terms of the mandate.

(c) The Covenant of the League (Article 22) and the Palestine mandate: Italy ceased legally to enjoy rights under these instruments on her final withdrawal from the League in December, 1939, but, as a matter of policy, His Majesty's Government continued to grant her the same rights as previously.

(d) The assurances of 1926: some doubt must exist whether these had continued validity after Italy's withdrawal from the League but on general grounds His Majesty's Government were not prepared to deprive Italy of her special privileges and the assurances therefore retained at any rate a nuisance value.

(e) The alleged firman of the Sultan of Turkey of 1919 regarding the Coenaculum: His Majesty's Government have never admitted the Italian claim but the Italian Government have never, on the other hand, abandoned it.

(f) The Anglo-Italian declaration of January 2, 1937: by this Italy could claim a voice in the settlement of the Palestine question even after she was no longer a member of the League; the outbreak of war between this country and Italy however, naturally deprived this instrument of all validity.

(g)/

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2		E		E 3864 3 - JUL 1944	
1944					
Registry } E 3864/3263/31 Number } FROM Mr. Poynton (Colonial Office) to Mr. Baxter. No. 14803/7/44 Dated 24th June Received in Registry } 3rd July 1944 E: Palestine and Transjordan =		<u>Italian interests in Palestine.</u> Refers to Mr. Baxter's letter dated 31st May (E 3263/3263/31) agreeing that general clause in peace treaty covering renunciation by Italy of claims in Palestine is required, but stating that such a clause should not include any specific reference to Mandate position, or be limited in any way to Palestine.			
Last Paper. E 3263 References. (Print.) (How disposed of.)		(Minutes.) Reconstruction ✓ 3-2-44 T. M. 4/4/44 Southern 12/7 M. F. 12/7 Is this sufficient for you to proceed on? Or do you wish us to draft the clause at this stage? RMAH 6/7 Not necessary yet, thank you. The idea of a preliminary treaty is still in suspense RMAH 27/7 4/10			
(Action completed.) V. 20/7 (Index.) 20/3/44 Next Paper.					

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21 END

and we should therefore deprecate any special reference to the Mandate in the clause dealing specifically with Palestine. In our view, a general clause on the lines you suggest is required, which should be drawn very widely and cover any possible claims in respect to Palestine. Such a clause should not however include any specific reference to the Mandate position, which should be covered, along with the Congo Basin Treaties, by a suitable general clause, covering all aspects of this matter, and in no way limited to, or specifying Palestine.

3. Subject to that, we agree with your idea of a renunciation clause relating to Palestine and should be glad to see a draft in due course.

Yours sincerely,

Arthur Balfour

(He marked this TOP SECRET because the correspondence mentioned at X/ is so graded)